

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE UNITED STATES OF AMERICA,

Plaintiff,

THE AMERICAN WATERWAYS
OPERATORS, et al.

Intervenor-Plaintiffs,

v.

THE COMMONWEALTH OF
MASSACHUSETTS, et al.

Defendants,

THE COALITION FOR BUZZARDS BAY,

Intervenor-Defendant.

Civil Action No. 05-10112 JLT

FILED
IN CLERKS OFFICE
2006 SEP 19 PM 4:16
U.S. DISTRICT COURT
DISTRICT OF MASS.

**JOINT NOTICE REGARDING TRANSCRIPT AND STATEMENT OF
ISSUES TO BE PRESENTED ON APPEAL**

In accordance with Fed. R. App. P. 10(b)(1)(B), all original Defendants and Intervenor-Defendant The Coalition for Buzzards Bay (collectively, "Appellants") hereby provide notice of their filing of a Transcript Report indicating that a transcript is not necessary for the appeal.¹ In addition, in accordance with Fed. R. App. P. 10(b)(3)(A), Appellants state that the issue to be presented on appeal is whether the district court erred as a matter of law in determining that the challenged provisions of "An Act Relative to Oil Spill Prevention and Response in Buzzards Bay and Other Harbors and Bays of the Commonwealth" (the "Oil Spill Prevention Act") are preempted, invalid and unconstitutional under the Supremacy Clause of the United States Constitution.

¹ The Transcript Report form is attached hereto as Exhibit 1.

Respectfully Submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

By its attorneys,

/s/ Pierce O. Cray (with permission)
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THE COALITION FOR BUZZARDS BAY

By its attorneys,

/s/ Jonathan M. Ettinger
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Dated: September 18, 2006

Exhibit 1

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Case name United States of America et al. v. Commonwealth of Massachusetts
 District Court Case No. 05-CV-10112 JLT District of Massachusetts
 Date Notice of Appeal filed September 7, 2006 Court of Appeals Case No. _____
 Form filed on behalf of All Defendants and Intervenor-Defendant The Coalition For Buzzards Bay

TRANSCRIPT REPORT

Transcript Not Necessary for this Appeal X
 Transcript Already Filed in District Court. List each transcript by docket entry number and date and type of proceeding (attach separate page if necessary) _____

TRANSCRIPT ORDER

Name of Court Reporter _____
 Phone Number of Reporter _____

A. _____ This constitutes an order of the transcript of the following proceedings [check appropriate box(es) and indicate dates of hearing(s)]:

PROCEEDING(S)	HEARING DATE(S)
<input type="checkbox"/> Jury Voir Dire	_____
<input type="checkbox"/> Opening Statement (plaintiff)	_____
<input type="checkbox"/> Opening Statement (defendant)	_____
<input type="checkbox"/> Trial	_____
<input type="checkbox"/> Closing Argument (plaintiff)	_____
<input type="checkbox"/> Closing Argument (defendant)	_____
<input type="checkbox"/> Findings of Fact/Conclusions of Law	_____
<input type="checkbox"/> Jury Instructions	_____
<input type="checkbox"/> Change of Plea	_____
<input type="checkbox"/> Sentencing	_____
<input type="checkbox"/> Bail hearing	_____
<input type="checkbox"/> Pretrial proceedings (specify) _____	_____
<input type="checkbox"/> Testimony (specify) _____	_____
<input type="checkbox"/> Other (specify) _____	_____

NOTE: Any form that fails to specify in adequate detail those proceedings to be transcribed will be considered deficient.

B. _____ I certify that I have contacted the court reporter and the following financial arrangements for payment of the transcript have been made:

- ☐ Private funds.
- ☐ Government expense (civil case). IFP status has been granted and a motion for transcript at government expense has been allowed. (Attach a copy of the order to each copy of this order form.)
- ☐ Criminal Justice Act. A CJA Form 24 has been approved by the district court judge.
- ☐ Criminal Justice Act. A CJA Form 24 is attached for authorization by the court of appeals.
- ☐ Federal Public Defender/Government Counsel - no CJA Form 24 necessary.

Filer's name Elisabeth M. DeLisle Filer's Signature 
 Firm/Address Foley Hoag LLP, 155 Seaport Boulevard, Boston, MA 02210
 Telephone number 617-832-1000 Date mailed to court reporter _____

(Court Reporter Use ONLY) Date received _____

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CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the following, which were filed via the Court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 18, 2006:

1. Joint Notice Regarding Transcript And Statement Of Issues To Be Presented On Appeal, with attached Transcript Report form; and,
2. this Certificate of Service.

/s/ Jonathan M. Ettinger
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Dated: September 18, 2006